

**WILLIAMSBURG CITY COUNCIL  
AUGUST 9, 2007  
MINUTES**

The Williamsburg City Council held its regular monthly meeting on Thursday, August 9, 2007, 2:00 p.m., in the Council Chambers of the Stryker Building.

**ATTENDANCE**

Present were Ms. Zeidler and Messrs. Haulman, Chohany, Freiling and Braxton. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Assistant City Manager Miller, Economic Development Manager DeWitt, Deputy City Attorney Workman, and Department Heads Nester, Hudson, Weiler, Serra and Walentisch.

**CALL TO ORDER**

Mayor Zeidler called the meeting to order.

**COUNCIL MINUTES**

*Mr. Freiling Moved That City Council Approve the Minutes of July 12, 2007, and Special Meetings of July 6 and July 10, 2007. The Motion Was Seconded by Mr. Braxton.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Chohany*

*No: None*

*Abstain: Haulman*

**MATTERS OF SPECIAL PRIVILEGE**

**Recognition of Shelia Crist, Clerk of Council, for Master Municipal Clerk Achievement**

Mayor Zeidler said that Ms. Crist was selected as the Virginia Municipal Clerk Association's "Clerk of the Year" in April 2007, and recently attained the designation of "Master Municipal Clerk" from the International Institute of Municipal Clerks, the nineteenth municipal clerk in Virginia to receive the designation. Mayor Zeidler asked Ms. Crist to join her at the podium for the presentation of the MMC plaque.

Mrs. Crist thanked the members of City Council and Mr. Tuttle for their support over the years as she worked to attain the MMC designation. She was happy to have attained this long-term goal.

**Excellence in Service to Williamsburg Presented to Richard Brown, Facilities Management**

Mayor Zeidler said it was an honor and privilege to present this award. Mr. Brown was chosen by his peers to be recognized for exceptional service to the city. Mayor Zeidler asked Mr. Brown to join her at the podium where she read the recognition outlining Mr. Brown's work and presented him with the award plaque.

Mr. Brown thanked Council and the City Manager for their support. He was pleased to be recognized. It was a pleasure to work with his fellow employees. Mr. Brown thanked Sharon Marchelya for the nomination, Cindy Floyd and Tammy Rojeck for their work and pleasant dispositions, and noted that his assistant, Willie Matthews, shares the workload.

## **PUBLIC HEARINGS**

### **PCR #07-018: Amendment of the Zoning Ordinance by revising the definitions for Hotel/Motel and Visitor, Proposed Ordinance #07-32**

**And**

### **Amendment of Chapter 18 of the Williamsburg City Secs. 18-236 and 18-237, Pertaining to Transient Lodging Tax, Proposed Ordinance #07-33**

Reference for this item was Mr. Nester's report dated August 9, 2007 and Mr. Phillip's report dated August 2, 2007. Mr. Nester reviewed a slide "Hotel/Motel Regulations," comparing the existing regulation, the Planning Commission's recommendation, and the alternate proposal as recommended by staff. He addressed regular length of stay, employee length of stay, stay in units with kitchen, and length of stay in remaining 15% of rooms (see attached Comparison Table).

Mr. Nester noted that the second public hearing related to the first. It was proposed that the city's Transient Lodging tax ordinance be amended to track with the length of time that sales tax may be charged for hotel/motel occupancy.

Mr. Nester referenced his supplemental report to Council dated August 8, 2007, regarding the Hotel/Motel Regulation Program (attached). Along with modification to the existing requirements for hotel guest registration, he proposed an enforcement policy to be implemented by staff.

Mr. Nester recommended adoption of the alternate proposal as outlined in Proposed Ordinance #07-032A (establishing a 90 day length of stay for hotels/motels) and adopting the Transient Lodging Tax revisions as outlined in Proposed Ordinance #07-33. Mr. Nester suggested that Council schedule the proposed ordinance pertaining to revisions to the Hotel Guest Registration regulations for the September 13 City Council meeting.

Mayor Zeidler opened the public hearings on the proposed ordinances.

**Nanci Bond, 216 Suri Drive**, referenced her recent letter to Council sent by e-mail, and provided follow-up comments to her letter pertaining to PCR #07-018. The need for extended stay rooms and apartments has been merged with the need for lodging for hospitality industry employees. The Busch model (International Village) addresses the need for short term stays. Other businesses want to piggy back on the ability to hire foreign workers without providing for housing or transportation. There are two issues: Adapting to the adult visitors needing an extended stay and arranging for their own needs, and arranging for decent housing and transportation for workers that are not familiar with our country's customs. Williamsburg will benefit or suffer from all decisions, consequences, and monitoring. The two issues should be considered separately so there is no confusion. Ms. Bond asked that Council allow for the time to identify the goals and provisions made for each, so that everyone will know what it what.

**Janet Kosidlak, 405 Shandel Drive**, agreed with Ms. Bond. The proposed changes are incompatible with the vision for Williamsburg and its Comprehensive Plan. The new regulations will adversely impact the east end of the city where most of the apartment complexes are located. If Council passes these new regulations, despite the objections heard today, are they adequate enough to be enforced? Will they create instant apartments and dormitories? The cost of enforcement should be considered. Will property values be decreased and property taxes reduced? Do the things that enhance the east end area; do things that are compatible with the Comprehensive Plan for Capitol Landing Road; do things that discourage the notion that the east end is a less desirable place to live than other places in the city; do not pass the regulations if they cannot be enforced; pay attention to the impact on revenue and future investments in the city. Who benefits from these changes? Is it the city or private property taxpayers? I don't think so, and why?

**Stuart Goddin, 715 Goodwin Street**, stated that Council's final decision should be guided by four principles:

1. The bright line between a hotel and an apartment building; the zoning and placement are different for each. The three unrelated person rule.
2. Hotel visitors don't become city residents by default.
3. Protecting the health of the hospitality industry and city revenues.
4. Enforcement of rules.

Mr. Goddin agreed that the 30-day rule is probably too restrictive. With a stay beyond 90 days, the bright line gets closer, and is crossed when stays exceed 180 days. He was not comfortable with allowing unlimited stays in rooms and suites that have kitchens. When is a person no longer a transient, but a resident and eligible for city services and privileges? The language in the ordinance is not clear on this issue and does not adequately address principal place of residence? What if people do not tell the truth; what is the penalty or fine? There is potential for a big problem.

Mr. Goddin noted the discrepancy between the language of the state code and the city's ordinance regarding transient lodging sales tax. The 90<sup>th</sup> day of stay is taxable in Williamsburg, but is not taxable according to the Code of Virginia (less than 90 continuous days). It would seem from a financial perspective, it would be best to limit any room rentals, with or without kitchens, to a maximum of 89 (or 90) days. He asked about taxes on the stay of on-site managers and employees. Any rule is worthless if there is no enforcement. There has been no enforcement of violations of the 30 day rule in over twenty years. He was pleased that enforcement provisions are to be addressed next month. The city must put the resources into enforcement and define how enforcement will be done.

**David Kranbuehl, 208 Harrison**, enforcement needs to be addressed as part of the ordinance. He agreed with Mr. Goddin that clarification is needed regarding the 89 or 90 day length of stay for tax purposes. Some people will try to manipulate the system by leaving a hotel/motel for one day or two after an extended stay, and then returning to the same facility for another extended stay. He suggested adding a stipulation that only one 90 day stay per six months (or other specified period). Business operators should be required to report to the city the name(s) of people that stay for an extended period. J-1 visitors are

handled very well, as in the Busch model, and if that type of program was expanded, Council should make it clear that the city may revert to the J-1 Visa guidelines previously adopted in December.

**Robert Hershberger, Executive Vice-President of the Greater Williamsburg Visitor and Tourism Alliance**, said that hotels and motels in this area were built for extended stay and that national chains in this area promote extended stay, such as for military personnel in training, workers on special projects, displaced residents, people relocating to the area, and business travelers. These guests use our area restaurants and stores, purchase food, lodging, and pay sales taxes, which help to keep our real estate taxes low. He complimented the Planning Commission and planning staff for working with the hoteliers to find a solution to this issue. He urged Council to adopt the proposed alternate ordinance.

**Pat Bell, Executive Director, Williamsburg Hotel/Motel Association**, thanked City Council for its work on the 30 day rule. Association members support the Planning Commission's recommendation and the planning staff's alternate proposal. Ms. Bell pointed out that hotels/motels are already required to keep registration records for seven years and saw no need for additional record keeping. The goal is to adopt an ordinance that will protect the interests of all concerned and involved.

**Janet Morris, owner of a second home in Brandywyne Subdivision, and a permanent residence in Rehoboth Beach, Delaware**, spoke concerning foreign workers coming to our country. Rehoboth Beach is a tourist community with many student workers. Before arriving there, the workers have jobs, a place to live, and three or four share accommodations. She suggested that in addition to rooms, hotels/motels managers provide kitchens, laundry facilities, and a common meeting area, for more appropriate living conditions.

**David Bryhn, Rochambeau and White Lion Motels**, thanked Reed Nester and Joe Phillips for the alternate proposal. He urged Council to be done with this and said the ordinance will be hard to enforce. He has been abiding by the law. Mr. Bryhn apologized for being so outspoken, but wants everyone to understand the money he has lost.

**R. Patel, 217 Thomas Lunsford Drive**, owner of three hotels in the city, strongly recommended the planning recommendation. He does not want his hotels to become dormitories or run down. They are in very good condition. The suggestion to provide kitchens, laundry facilities, etc., for the student workers for a 90 day stay would be very expensive. The students provide a good service to our city and work very hard; some working two jobs. Four share a room. When the students come to Williamsburg, they travel together, know where they will work, and want to share a room.

**Rick Hines, Second Street**, supported the Planning Commission's recommendation. Regarding Ms. Bond recommendation that the students have jobs and transportation arranged before they come, the Code of Federal Regulations specifically states that they do not have to have a job or transportation; they simply have to fall under the federal guidelines of a J-1 student visitor coming to our country for employment. It is important to keep these students close to services and jobs. But, as previously noted, there are many other types of workers that come to Williamsburg. He suggested leaving it up to the hotel/motel owners how best to operate their businesses. Commercial businesses help to

support our city and keep property taxes low for residents. We should support their attempts to operate in a businesslike manner.

**Julius Dell, 322 Indian Springs**, said that whatever is decided has to be enforced. We need to know the requirement, how to monitor it, how to enforce it, and most of all, set penalties for violations to prevent violation in the first place. What is the penalty for a Class 1 misdemeanor? If it does not cost enough, it may not be a deterrent. He asked Council to consider his suggestions regarding enforcement.

No one else wished to speak.  
The hearing was closed.

Discussion:

Mr. Phillips explained that a Class 1 misdemeanor is the highest level of punishment that local government can prescribe. Anything higher is a felony. Punishment for a Class 1 misdemeanor is within the discretion of the court, with as much as a \$1,000 fine or one year in jail. As a criminal offense, the burden of proof is very strong, and must be proved beyond a reasonable doubt. The city's Zoning Ordinance no longer provides for criminal penalties because of the difficulty of proving a criminal offense. State Law mandates the amount of civil penalties. The city could petition the Circuit Court to enjoin a violation, and we have done that. There is a collection of remedies to gain compliance, but there is a burden of proof to carry for an offense.

Mr. Phillips said that as to a hiatus between 90 day stays, there is nothing in the law to prevent the city from regulating that, but it would need to be enforced. To add the rigorous enforcement that he is hearing some people say they want, Council would need to add a significant number of city staff people.

Mr. Phillips said that the 90 days transient occupancy tax was written to correspond with the proposed alternative zoning provision. The State's sales tax code does not govern the city's transient occupancy tax. Mr. Phillips offered the following language to clarify the ambiguity between State sales tax code and the city's ordinance relative to paying the occupancy tax: *Persons who fall within the exemption set forth in Section 21-2(2) of the Williamsburg Code (Hotel/Motel definition) shall pay the taxes hereunder for the first 90 days of continuous occupancy, notwithstanding that such continuous occupancy may exceed 90 days.*

Mr. Haulman said that there are three integral issues to be addressed: regulating transient visitor stays (particularly long term stays); monitoring and enforcing the regulations for transient visitors; providing housing for exchange visitors. This month we are dealing with the first issue, and next month will deal with enforcement. We still need to address the exchange visitor issue, and have a good business model in the Busch Village. Addressing the first issue does not mean the city will not deal with the others.

Mr. Chohany's asked why not issue a special use permit to all hoteliers to control stays, which could be rescinded should there be a violation of regulations. Mr. Nester responded that a special use permit is issued by application only. The city cannot grant a blanket SUP to all hotels in the city. Various categories of SUPs could be created, but he would not

recommend it as a good way to proceed with this issue. Mr. Chohany observed that it seemed we are trying for one ordinance to help us in many ways.

Mr. Nester said there were 4,567 rooms at 52 establishments in the city.

Mr. Chohany believed hoteliers want people to come to town and want diversity in the rooms that they provide for visitors, which will ultimately help their businesses. He agreed with Mr. Goddin that 180 days was too long for a transient visitor stay; the 90 day rule seemed reasonable. He appreciated the alternate ordinance recommended by staff.

Mr. Phillips responded to Mr. Braxton that the city does not have the option of revoking a business license as an enforcement tool. A business license raises revenue. Businesses must comply with the zoning regulations for their particular area of operation.

Mr. Freiling asked about limits on the length of stay in the surrounding jurisdictions. Mr. Nester responded that James City County and York County do not specify a particular length of stay, although he believed "transient" was considered 30 days or less in York County. Mr. Freiling said that people could stay in James City County and avoid the city's regulations. He concurred with Mr. Chohany that hoteliers want to bring people to town, which adds to their success and financial wellbeing. Most do a great job and follow the rules. It is good to have an enforcement policy, although there is room for improvement; some issues will arise as we start implementation.

Mr. Phillips responded to Mr. Freiling that State Law allows civil penalties in certain defined instances, such as zoning, but generally does not provide for localities to levy civil penalties. The keeping of the guest registrations is outside of zoning and under State Law, a misdemeanor violation. The city could establish a graduated fine system for misdemeanors.

Mr. Freiling preferred the alternate ordinance because it is simple and clear, and able to be enforced.

Mayor Zeidler said the city has been dealing with this issue for many months. Council appreciated the work of people in the community, including citizens, Planning Commission, and Hotel/Motel Association, to address all concerns. This is not an easy issue for the community. It deals with the health and quality of hotels/motels tourism industry, neighborhoods, and the environment in the city. The alternate proposal puts us on the path in the right direction, realizing that enforcement needs to be addressed. She thanked staff for the alternative proposal which she was prepared to support.

*Mr. Haulman Moved That City Council Adopt Proposed Ordinance #07-32A, An Ordinance Amending the Code of the City of Williamsburg, Chapter 21, Zoning, Article 1, In General, Section 21-2, Definitions of Hotel/Motel and Visitor. The Motion Was Seconded by Mr. Braxton.*

*Recorded Vote on the Motion:*

*Ayes: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

*Mr. Haulman Moved That City Council Adopt Proposed Ordinance #07-33, An Ordinance to Amend Section 18-236 and 18-237 of Article VII of Chapter 18 of the Williamsburg Code Pertaining to Transient Lodging Taxes, to Include the Clarification Language Drafted by the City Attorney. The Motion Was Seconded by Mr. Chohany.*

*Recorded Vote on the Motion:*

*Ayes: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

(See Attached Adopted Ordinances #07-28 and #07-29)

**PCR #07-020: Amendment of the Zoning Ordinance by the addition of Article XI. Floodplain Regulations, Proposed Ordinance #07-34**

Reference for this item was Mr. Nester's report dated August 9, 2007. Mr. Nester explained that the city's Chesapeake Bay regulations no longer meet the requirements of the National Flood Insurance Program (NFIP) according to FEMA. The proposed regulations will comply with the requirements of the NFIP, and are necessary in order for property owners in the city to be eligible for the Program. The amendment must be adopted by September 28, 2007 for the city to be in compliance. Mr. Nester showed slides of city flood maps. Planning Commission recommended Council adopt the proposed ordinance to enact the regulations.

Mr. Nester and Council members discussed:

- The regulations do not add any additional requirements for property owners.
- In areas located in flood ways or major water flows, construction would be prohibited. The city's Ches Bay regulations addressed this same issue.
- Flood plain maps are available in the Planning Office for public review.
- Disclosure of property located in a flood plain area, as well as information about flood plain insurance, is provided as part of a property settlement/mortgage process.

Mr. Freiling suggested that the flood plain information be added to the Property Information on the city website. Mr. Tuttle said that he would look into adding the information by digital overlay.

Mayor Zeidler opened the public hearing.

**Ron Hoidal, 205 Shaindel Drive**, asked Council if the plans on file with the city reflect changes in a development such as moving a building or changing a drainage plan, which could affect the stormwater flow and direction.

**Victor Smith, Counselors Close**, appreciated the staff report and said he understood the federal government's intent for requiring this. He noted a drainage water flow problem at the end of Griffin Street which could be a major problem. The property has come back on the market and he suggested the city purchase it. The city has already mitigated one drainage problem that he knew of. Pollard Park has drainage problems at times. Please pass this ordinance, but we need public stormwater consciousness to prevent people from exacerbating drainage, causing erosion, or building on a piece of property unsuited for that use.

No one else wished to speak.  
Mayor Zeidler closed the public hearing.

Mayor Zeidler asked that the City Manager provide information to City Council at a future work session about stormwater management issues. Mr. Tuttle noted that Council recently heard a discussion about stormwater management as a utility and environmental issue. The issues of stormwater management are multifaceted and would need to be reviewed separately.

*Mr. Freiling Moved That City Council Adopt Proposed Ordinance #07-34, An Ordinance Amending Chapter 21, Zoning, of the Code of the City of Williamsburg by the Addition of Article XII, Floodplain Regulations. The Motion Was Seconded by Mr. Chohany.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None (See Attached Adopted Ordinance #07-30)*

**Cable Communications Ordinance, *Proposed Ordinance #07-35*  
AND**

**Cable Franchise Agreement with Cavalier IP TV, LLC**

Mr. Tuttle said that Council received a report on these issues at the work session. He suggested the public hearings be held together. The proposed ordinance regarding cable communications is an update and rewrite that incorporates the major changes in state law, is modeled after the VML ordinance, and includes some provisions of the city's current cable ordinance. The revision was necessary before consideration of the Cavalier Franchise Agreement. Both Ms. Workman and Ms. Miller provided Council with briefings about the two issues at the work session.

Mr. Tuttle said the franchise agreement provides for the Standards of Operation, revenues, and expectations for Cavalier to operate in the city by Internet protocol over existing phone lines to provide cable television and Internet services.

Mayor Zeidler opened the public hearings.

No one wished to speak.  
The hearing was closed.

Council members and Mr. Tuttle discussed:

- Cavalier having a home office presence in the city. Cavalier is not required to have a home office, but must provide a local telephone number.
- Cavalier's ability to provide all bundled services to city customers. The service area map provided by Cavalier may not reflect areas with limited service.
- Cavalier maintains a website for potential customers to receive information about services and options for their area.

*Mr. Chohany Moved That City Council Adopt Proposed Ordinance #07-35, An Ordinance Amending Chapter 9, Article 1, Cable Communications, of the Code of the City of Williamsburg. The Motion Was Seconded by Mr. Freiling.*



*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

(Attached Adopted Ordinance #07-31)

*Mr. Chohany Moved That City Council Authorize the City Manager to Enter Into a Franchise Agreement with Cavalier to Provide IP Cable Service in the City. The Motion Was Seconded by Mr. Freiling.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

**Monthly Financial Statement**

*The Financial Report was received and ordered filed.*

Long Term Debt: Mr. Tuttle reported that the sales transaction on the Waller Mill property was complete, and the indebtedness would no longer be reflected on the report.

Communications Sales Tax and Franchise License Tax: Mr. Serra reported that the franchise license tax of \$91,000 is residual, and aside from Cox Cable. Cox Communication collects the sales tax, forwards the money to the state, and then the state trickles it down to the localities. Mr. Serra will provide additional information to Council.

Contributions to Other Entities: As requested, additional information will be provided in the Monthly Report regarding the contributions.

**Monthly Departmental Operating Reports**

*The Monthly Departmental Reports were received and ordered filed.*

**CITY MANAGER REPORTS**

**Library HVAC Control System**

Reference for this item was Mr. Tuttle's report dated August 2, 2007. Mr. Tuttle reviewed the information provided in his report. The library building is the city's responsibility. The work on the HVAC system is a big job that included the installation of control valves, control units, and automation of the climate control system. The cost is a "not to exceed" cost of \$154,000. About 90% of the equipment for the HVAC system is made by Trane. Staff recommended that a contract be awarded to Damuth Trane as a sole source provider because of the unique nature of the controls, at a cost not to exceed \$154,000.

The Mayor commented that the climate control system is a good investment and protects the library's investment in its collection.

Carrie Binsfeld, Finance Director at the Library, reviewed the provisions of the ten-year maintenance agreement with Damuth. She anticipated that the new equipment would result in savings for the library.

Dick Brown explained that the library's current equipment was from different suppliers and systems and the controllers cannot "talk" to one another. Since most of the equipment is

Trane, the new controllers will enable the systems to work together. Damuth Trane is the Southeastern Virginia representative for Trane.

*Mr. Freiling Moved that City Council Authorize Execution of a Contract for an HVAC Control System with Damuth Services in a Form Satisfactory to the City Attorney. The Motion Was Seconded by Mr. Chohany.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

#### **104 Braxton Court—City Loan to WHRA**

Reference for this item was Mr. Tuttle's report dated August 7, 2007. Mr. Tuttle explained that the city provided an interest-free bridge loan to the Housing Authority for the purchase of 104 Braxton Court. The property was to be renovated and resold. The city was to be repaid when the property was sold or if cash flow was sufficient to repay the city from the Strawberry Plains project funds. The city granted an extension to the Housing Authority in December 2006, with a five percent penalty for late payment of the loan. The Housing Authority has acted responsibly; the house was marketed and sold. Mr. Tuttle recommended waiving the five percent penalty with repayment of the loan. He noted that Jan Hillman of the Housing Authority was present.

Ms. Hillman said that the sale of the house will realize a profit of just under \$10,000, which will cover the Authority's administrative costs. Mr. Chohany noted that the minimal profit on the sale will be reinvested into the community.

Mr. Haulman said that these aged property renovations and marketing them can be complicated and overly optimistic. Perhaps the city and Housing Authority should have recognized that and set a longer term.

The City Attorney replied to Mr. Braxton that he can vote on this issue.

Mr. Tuttle said that in the future if the city provides this type of bridge financing, it would be good to include repayment with a less ambitious time frame, and include an interest rate after a certain amount of time instead of a flat percentage rate of penalty. He and Ms. Hillman will discuss this type of thing in the future.

Ms. Hillman said the sale of the property will close today.

*Mr. Freiling Moved That City Council Authorize Waiver of the \$7,500 Penalty for Delinquent Repayment of the \$150,000 Note Held on the WHRA Property at 104 Braxton Court. The Motion Was Seconded by Mr. Braxton.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Chohany*

*No: None*

*Abstain: Haulman*

### **City Attorney Report**

#### **Concealed Handguns, Proposed Ordinance #07-36**

Reference for this item was Mr. Phillips report dated July 31, 2007. Mr. Phillips explained that prior state law allowed localities to fingerprint individuals applying for a handgun permit for the first time and with each permit renewal. The last session of the General Assembly changed the code to no longer allow fingerprinting at the time of renewal. The proposed ordinance will bring the City Code in line with State Code.

Mr. Phillips replied to Mr. Freiling that he did not know the reason that the General Assembly acted as they did and there was no congressional type record to explain its actions. One would have to talk to someone that was present at the time of the passage.

Mr. Haulman stated that he had problems with concealed handguns to begin with. What if the city had no ordinance to deal with concealed handguns? Could the city have an ordinance to prohibit concealed handguns? Mr. Phillips responded that it could not. If the city had no ordinance, the permitting would still be required, but there would be no fingerprinting as part of the initial permitting. We would still have to issue the permit.

Responding to Mr. Freiling, Mr. Phillips said that if the city does not change its Code, it would be in violation of the Dillon Rule. The city would be exceeding its authority, and would have no ability to make a person comply.

Mr. Freiling commented that when he cashes a check at the bank, they require his fingerprint, but yet when someone is applying for reauthorization to carry a concealed weapon they don't have to provide one.

Mr. Chohany commented that this ordinance provides for fingerprinting at the initial weapons permit, and the reapplication is not a big deal. He was more worried about the person that has a gun without a permit and no fingerprints. This provides an incentive for people to reapply for a permit.

Mr. Haulman shared a recent incident that happened near the Law School when a person with a concealed handgun permit shot at another individual. He was concerned about people with a gun permit.

Mayor Zeidler said to do nothing would make things worse in Williamsburg. Moving forward on this ordinance complies with State Code.

Mr. Freiling said that the majority of people with permits are responsible, but thought it disturbing that the General Assembly would limit the city's ability in this way.

*Mr. Chohany moved That City Council Adopt Proposed Ordinance #07-36, An Ordinance to Amend and Restate Section 9-350 of Article X, Chapter 9 of the Williamsburg Code Pertaining to Concealed Weapons Permits. The Motion Was Seconded by Mr. Braxton.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Chohany*

*No: Haulman*

*(See Attached Adopted Ordinance #07-32)*

### **Change the Names of Two Streets, *Proposed Resolution #07-11***

Reference for this item was Mr. Phillips report dated July 31, 2007. Mr. Phillips reported that Pocahontas Street and Powhatan Street were incorrectly identified as "Pocahontas Avenue" and "Powhatan Avenue" on a century-old subdivision plat. The proposed resolution calls for the legal action to correct the official records in the Circuit Court Clerks Office and change the land records for the city. Mayor Zeidler commented that Mrs. Taylor on Pocahontas Street had brought this to her attention several times and she will be happy to see this corrected.

*Mr. Freiling Moved that City Council Adopt Proposed Resolution #07-11, A Resolution to Change the Names of Two Streets Located Within the City of Williamsburg. The Motion Was Seconded by Mr. Braxton.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

*(See Attached Adopted Resolution #07-11)*

### **Appointments to Boards and Commissions**

*Appoint **Judge Samuel T. Powell, III**, to the Colonial Community Criminal Justice Board, for a Two-Year Term Effective July 1, 2007, to Expire June 30, 2009; and*

*Reappoint **Dr. Miriam Schneider** to the Peninsula Agency on Aging for a Three-Year Term to Expire September 30, 2010. The Motion Was Seconded by Mr. Braxton.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Braxton, Zeidler, Haulman, Chohany*

*No: None*

### **New Business**

#### **Condition of City Bridges**

Mayor Zeidler commented that she was sorry about the recent bridge disaster in Minnesota where an interstate bridge crossing the Mississippi River collapsed and several people were killed. She asked referenced a recent e-mail report from Mr. Clayton about the condition of the city's five bridges and asked him to provide that information again.

Mr. Clayton reported that the city is responsible for five bridges: By-Pass Road over the CSX Railroad, Capitol Landing Rd. over CSX railroad, Page St. over CSX Railroad, Merrimac Trail (Rte 143) over the Colonial Parkway, and Quarterpath Rd. over Tutter's Creek. City bridges were last inspected October 2006, are safe, and rated "good" (the highest rating) with the exception of the Bypass Road Bridge which was rated "fair" because the bearing plates need to be replaced. Bids are expected next week (and will include some cosmetic repairs on other bridges), and the cost is expected to be more than \$100,000. Council will need to award the bid. Bridges are required to be inspected every two years. The Capitol Landing Road Bridge and the bridge on Rte 143/Farm Fresh were functionally obsolete because of narrowness, not structure.

### **OPEN FORUM**

Mayor Zeidler asked for comments.

**Rick Hines, 217 and 212 Second Street**, thanked Chief Yost and the police department for ongoing enforcement efforts on Second Street to slow traffic and make it a safer street. Recently, he was nearly struck by a speeding vehicle in the fourth lane as he crossed Second Street. It is often difficult to cross that street. Last year, he and other business owners/property owners on Second Street petitioned the city to reduce the speed limit to 25 mph. He is asking again. Blue Green Developers have proffered a stop light at Parkway Drive and Second Street with Phase II of their timeshare development as a solution to a speeding problem. He understood it was three to five years before development reaches that phase. Other recently approved developments in the area will increase traffic. He asked if there was a mechanism in the city structure to compel Mr. Tuttle act to reduce the speed limit to 25 mph for the entire length of Second Street from the city limit to the stoplight at Page Street.

Mr. Tuttle said that the petition to reduce the speed limit was given serious consideration, but felt that it was not appropriate given the nature of the street, its geometry, and the enforceability of a 25 mph speed limit. Mr. Tuttle and Mr. Clayton were of the opinion that a stop light was more appropriate for the intersection and for pedestrian crossing.

Mr. Clayton said the engineering is scheduled for FY 2008 and the traffic signal installed for FY 2009, along with the traffic signal at Waltz Farms Drive and Richmond Road. A pedestrian activated push button signal will be installed at that time.

**Julius (Bill) Dell** congratulated the city on the results of the recent Citizens Survey included in the *Quarterly Quill*. He noted with interest the plans to participate in a national public opinion survey. It raised a yellow flag for him about how the city would benefit from participating in a national survey and its value. Perhaps information obtained will help the city to improve in certain areas. He cautioned that before we spend a lot of money to participate in the survey, that more information is needed.

Mr. Tuttle commented that the national survey was a more professional and scientific survey, and it was hoped that it will identify areas where the city could improve and provide benchmarks. The sample size will be larger and the validity of the survey should increase regarding outcomes. The city can withdraw if it is not happy with the results. He appreciated Mr. Dell's comments. The Mayor said the city was looking for ways to measure accountability.

## **CLOSED SESSION**

Mr. Haulman Moved that City Council go into Closed Session pursuant to Section 2.2-3711 of the Code of Virginia for the purpose of discussing one property matter per subparagraph 3, regarding acquisition of property for redevelopment of which discussion in an open meeting would adversely affect bargaining or negotiation strategy of public body. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 4:35 p.m. The Mayor called a five-minute recess.

**OPEN SESSION**

At 5:26 p.m. Council met in Open Session.

Mr. Haulman Moved the Certification of Closed Meeting. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Chohany

No: None

**Certification of Closed Meeting**

Date: August 9, 2007

Motion: Mr. Haulman Second: Mr. Freiling

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the City Council that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

VOTE:

Aye: Freiling, Braxton, Zeidler, Haulman, Chohany

No: None

Absent During Vote: None

Absent During Meeting: None

The meeting adjourned at 5:27 p.m.

Approved: September 13, 2007

Jeanne Zeidler, Mayor

Shelia Y. Crist, MMC  
Clerk of Council